

REMARKS

Before entry of this Amendment, claims 1-5, 10, 12, 13, 15, 16, 20 and 25 were pending in the application. After entry of this Amendment claims 1-5, 10, 12, 13, 15, 16, 20 and 25 remain pending under examination. Claims 6-9, 11, 14, 17-19, 21-24, 26 and 27 were previously withdrawn. The number of total claims has not been increased, and the number of independent claims has not been increased beyond the number for which payment previously had been made.

Applicant has carefully considered the Examiner's Action of April 4, 2006, and the references cited therein. The following is a brief summary of the Action. Claims 1-3, 5, 10, 12, 13, 20 and 25 were rejected under 35 U.S.C. 102(b) as being anticipated by Baumann et al (U.S. Patent No. 6,354,296). Claims 4, 15 and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann et al in view of Niemeyer (U.S. Patent No. 4,951, 664).

For the reasons explained below, applicant respectfully traverses the rejection of claims 1-3, 5, 10, 12, 13, 20 and 25 under 35 U.S.C. 102(b) as being anticipated by Baumann et al.

Each of claims 1-5, 10, 12, 13, 15, 16, 20 and 25 requires (emphasis added):

a body portion configured to be placed **over a mouth and at least part of a nose of a user** in order to isolate the mouth and the at least part of the nose of the user from the environment such that the air of respiration is drawn through the body portion,

See page 8, lines 23-26 of applicant's specification for example.

Each of claims 1-5 and 10 requires (emphasis added):

the body portion having a baffle layer having an outer and an inner surface **with a plurality of projections** extending from at least one of the outer and inner surfaces that define a plurality of channels

on the baffle layer configured for channeling fluid to different locations on the baffle layer

See page 8, lines 23-26 of applicant's specification for example.

Similarly, each of claims 12, 13, 15, 16, 20 and 25 requires (emphasis added):

the body portion having at least one layer, * * * the layer having a plurality of projections extending therefrom, * * * wherein the projections define a plurality of channels on the layer configured for channeling fluid to different locations on the layer

See page 8, lines 23-26 of applicant's specification for example.

Baumann et al's mask 10 cannot satisfy these limitation of claims 1-5, 10, 12, 13, 15, 16, 20 and 25 because its resilient member 12 with the pillowed lower density regions 44 (arguably projections) is not "configured to be placed **over a mouth and at least part of a nose of a user.**" Instead, Baumann et al's resilient member 12 is configured to be positioned between the user's eyes and nose. As explained at Baumann et al column 3, lines 36 – 41 (emphasis added):

When the resilient member 12 is positioned against a wearer's face, such as **between the wearer's nose and eyes, as shown in Fig. 3**, moisture from exhaled breath is prevented from exiting the mask in a manner that would cause fogging of the wearer's eyewear, e.g., eyeglasses, goggles, and face shields.

The Baumann et al patent is entitled, Anti-Fog Mask. Not surprisingly, the overriding purpose of the Baumann et al mask 10 is to prevent fogging of the wearer's eyewear, which is never located near the wearer's mouth. Thus, the portion of the Baumann et al mask 10 that is configured to cover the mouth of the wearer is not provided with the resilient member 12 and its air pillowed lower density regions 44 (arguably projections).

Applicant therefore respectfully submits that claims 1-3, 5, 10, 12, 13, 20 and 25 are patentable under 35 U.S.C. 102(b) over Baumann et al.

For the reasons explained below, applicant respectfully traverses the rejection of claims 4, 15 and 16 under 35 U.S.C. 103(a) as being unpatentable over Baumann et al in view of Niemeyer.

Niemeyer fails to correct the deficiency that is noted above in Baumann et al. Moreover, Niemeyer fails to disclose any baffle layer with projections as required by claims 4, 15 and 16. Thus, it is not possible for Niemeyer to be read to disclose or suggest a layer stiffer than a baffle layer with projections as required by claims 4, 15 and 16. Nor does the Office Action identify any such stiffer layer in Niemeyer.

Applicant therefore respectfully submits that claims 4, 15 and 16 are patentable under 35 U.S.C. 103(a) over Baumann et al in view of Niemeyer.


Applicant respectfully requests reconsideration and reexamination of claims 1-5, 10, 12, 13, 15, 16, 20 and 25, as presented herein, and submits that these claims are in condition for allowance and should be passed to issue.

If any fee or extension of time is required to obtain entry of this Amendment, the undersigned hereby petitions the Commissioner to grant any necessary time extension and authorizes charging Deposit Account No. 04-1403 for any such fee not submitted herewith.

Respectfully submitted,

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